

AMENDED IN ASSEMBLY JUNE 28, 1996

AMENDED IN ASSEMBLY JUNE 18, 1996

AMENDED IN SENATE MAY 20, 1996

AMENDED IN SENATE APRIL 29, 1996

SENATE BILL

No. 1805

Introduced by Senator Rosenthal

(Principal coauthor: Assembly Member Alby)

February 22, 1996

An act to ~~add Section 1366.16 to~~ amend Section 1386 of the Health and Safety Code, and to add Section 10120.5 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 1805, as amended, Rosenthal. Health care coverage.

Existing law provides for the licensure and regulation of health care service plans administered by the Commissioner of Corporations *and authorizes the commissioner to suspend or revoke a license or assess civil penalties if the licensee has committed any of the prescribed acts or omissions that constitute grounds for disciplinary action.* ~~Under existing law, willful violation of any of these provisions is a misdemeanor. Existing law also provides for the regulation of disability insurers administered by the Insurance Commissioner.~~

Existing law states that it is the public policy of the state that licensed health care practitioners, as defined, be encouraged to advocate for medically appropriate health care, as defined, for their patients. Existing law provides that the application

and rendering by any person, as defined, of a decision that penalizes a health care practitioner principally for advocating for medically appropriate health care violates public policy.

This bill would provide that a violation of those provisions, and provisions proposed to be added by AB 3013 by health care service plans or certain disability insurers, would also be a violation of the ~~law regulating health care service plans and~~ a violation of the Insurance Code, *and would constitute grounds for disciplinary action against a health care service plan by the Commissioner of Corporations.*

~~By changing the definition of a crime, the bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~ *no*. State-mandated local program: ~~yes~~ *no*.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 1366.16 is added to the Health~~
2 ~~and Safety Code, to read:~~

3 ~~1366.16. (a) It is the intent of the Legislature to~~
4 ~~guarantee that health care providers can communicate~~
5 ~~freely with their patients and act as advocates for their~~
6 ~~patients to ensure that contracting arrangements~~
7 ~~between health care service plans and providers do not~~
8 ~~jeopardize a patient's health care.~~

9 ~~(b) Any act by a health care service plan that violates~~
10 ~~Section 510, Section 2056, or Section 2056.1 of the Business~~
11 ~~and Professions Code shall also be a violation of this~~
12 ~~chapter.~~

13 ~~SECTION 1. Section 1386 of the Health and Safety~~
14 ~~Code is amended to read:~~

15 ~~1386. (a) The commissioner may suspend or revoke~~
16 ~~any license issued under this chapter to a health care~~
17 ~~service plan or assess civil penalties if the commissioner~~

1 determines that the licensee has committed any of the
2 acts or omissions constituting grounds for disciplinary
3 action.

4 (b) The following acts or omissions constitute grounds
5 for disciplinary action by the commissioner:

6 (1) The plan is operating at variance with the basic
7 organizational documents as filed pursuant to Section
8 1351 or 1352, or with its published plan, or in any manner
9 contrary to that described in, and reasonably inferred,
10 from the plan as contained in its application for licensure
11 and annual report, or any modification thereof, unless
12 amendments allowing the variation have been submitted
13 to, and approved by, the commissioner.

14 (2) The plan has issued, or permits others to use,
15 evidence of coverage or uses a schedule of charges for
16 health care services which do not comply with those
17 published in the latest evidence of coverage found
18 unobjectionable by the commissioner.

19 (3) The health care service plan does not provide basic
20 health care services to its enrollees and subscribers as set
21 forth in the evidence of coverage. This subdivision shall
22 not apply to specialized health care service plan
23 contracts.

24 (4) The plan is no longer able to meet the standards set
25 forth in Article 5 (commencing with Section 1367).

26 (5) The continued operation of the plan will constitute
27 a substantial risk to its subscribers and enrollees.

28 (6) The plan has violated or attempted to violate, or
29 conspired to violate, directly or indirectly, or assisted in
30 or abetted a violation or conspiracy to violate any
31 provision of this chapter or any rule or regulation adopted
32 by the commissioner pursuant to this chapter.

33 (7) The plan has engaged in any conduct which
34 constitutes fraud or dishonest dealing or unfair
35 competition, as defined by Section 17200 of the Business
36 and Professions Code.

37 (8) The plan has permitted, or aided or abetted any
38 violation by an employee or contractor who is a holder of
39 any certificate, license, permit, registration or exemption
40 issued pursuant to the Business and Professions Code, or

1 the Health and Safety Code which would constitute
2 grounds for discipline against the certificate, license,
3 permit, registration, or exemption.

4 (9) The plan has aided or abetted or permitted the
5 commission of any illegal act.

6 (10) The engagement of a person as an officer,
7 director, employee, associate, or provider of the plan
8 contrary to the provisions of an order issued by the
9 commissioner pursuant to subdivision (c) of this section
10 or subdivision (d) of Section 1388.

11 (11) The engagement of a person as a solicitor or
12 supervisor of solicitation contrary to the provisions of an
13 order issued by the commissioner pursuant to Section
14 1388.

15 (12) The plan, its management company, or any other
16 affiliate of the plan, or any controlling person, officer,
17 director, or other person occupying a principal
18 management or supervisory position in the plan,
19 management company or affiliate, has been convicted of
20 or pleaded nolo contendere to a crime, or committed any
21 act involving dishonesty, fraud, or deceit, which crime or
22 act is substantially related to the qualifications, functions
23 or duties of a person engaged in business in accordance
24 with this chapter. The commissioner may revoke or deny
25 a license hereunder irrespective of a subsequent order
26 under the provisions of Section 1203.4 of the Penal Code.

27 (13) *The plan violates Section 510, Section 2056, or*
28 *Section 2056.1 of the Business and Professions Code.*

29 (c) The commissioner may prohibit any person from
30 serving as an officer, director, employee, associate, or
31 provider of any plan or solicitor firm, or of any
32 management company of any plan, or as a solicitor, if (1)
33 the prohibition is in the public interest and the person has
34 committed or caused, participated in, or had knowledge
35 of a violation of this chapter by a plan, management
36 company, or solicitor firm or if (2) the person was an
37 officer, director, employee, associate, or provider of a
38 plan or of a management company or solicitor firm of any
39 plan whose license has been suspended or revoked
40 pursuant to this section and the person had knowledge of,

1 or participated in, any of the prohibited acts for which the
2 license was suspended or revoked. A proceeding for the
3 issuance of an order under this subdivision may be
4 included with a proceeding against a plan under this
5 section or may constitute a separate proceeding, subject
6 in either case to appropriate notice and opportunity for
7 hearing to the person affected in accordance with
8 subdivision (a) of Section 1397.

9 SEC. 2. Section 10120.5 is added to the Insurance
10 Code, to read:

11 10120.5. (a) It is the intent of the Legislature to
12 guarantee that health care providers can communicate
13 freely with their patients and act as advocates for their
14 patients to ensure that contracting arrangements
15 between disability insurers and providers do not
16 jeopardize a patient's health care.

17 (b) Any act by a disability insurer that covers hospital,
18 medical, or surgical expenses that violates Section 510,
19 Section 2056, or Section 2056.1 of the Business and
20 Professions Code shall also be a violation of this code.

21 SEC. 2.5. The reference to Section 2056.1 of the
22 Business and Professions Code as set forth in Sections 1
23 and 2 of this act shall have no effect unless Section 2056.1,
24 as added by Assembly Bill 3013, takes effect on or before
25 January 1, 1997.

26 ~~SEC. 3. No reimbursement is required by this act~~
27 ~~pursuant to Section 6 of Article XIII B of the California~~
28 ~~Constitution because the only costs that may be incurred~~
29 ~~by a local agency or school district will be incurred~~
30 ~~because this act creates a new crime or infraction,~~
31 ~~eliminates a crime or infraction, or changes the penalty~~
32 ~~for a crime or infraction, within the meaning of Section~~
33 ~~17556 of the Government Code, or changes the definition~~
34 ~~of a crime within the meaning of Section 6 of Article~~
35 ~~XIII B of the California Constitution.~~

36 ~~Notwithstanding Section 17580 of the Government~~
37 ~~Code, unless otherwise specified, the provisions of this act~~

- 1 ~~shall become operative on the same date that the act~~
- 2 ~~takes effect pursuant to the California Constitution.~~

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